

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
HARRISONBURG DIVISION**

JAN 06 2017
JULIA O'DUDLEY CLERK
BY: DEPUTY CLERK

UNITED STATES OF AMERICA,)
v.) Case No. 5:09-cr-00028
TIMOTHY WAYNE PAINTER,) By: Michael F. Urbanski
Petitioner.) United States District Judge

ORDER

For the reasons set forth in the accompanying Memorandum Opinion entered this day, petitioner Timothy Wayne Painter's 28 U.S.C. § 2255 motion, ECF No. 199, is **GRANTED**. It is **ORDERED** that the Judgment entered on March 25, 2010, ECF No. 144, is **VACATED**.

Painter expressly waived any right to be resentenced in person and to allocute to the court, and he has consented to being resentenced in his absence. ECF No. 199. Both parties have represented that no victims wish to attend Painter's resentencing and no motions will be made to amend the conditions of Painter's five year term of supervised release. ECF Nos. 213, 214. Accordingly, the court will not hold a resentencing hearing.

The court hereby **ORDERS** that Painter is resentenced to a total period of incarceration of 139 months, comprised of 79 months on Count One and 79 months on Count Six to run concurrently, and 60 months on Count Four to run consecutively. All other provisions of Painter's previous judgment remain intact. The Clerk is **DIRECTED** to prepare an Amended Judgment to reflect the sentence imposed by this Order. Painter **SHALL** retain credit for all time already served.

It is **SO ORDERED.**

Entered: *1-6-2017*

1st Michael F. Urbanski

Michael F. Urbanski
United States District Judge